



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KAKAMEGA
CIVIL APPEAL NO.166 OF 2010
MELENIA OCHOLA ONAY.....APPELLANT
VERSUS
(1) SILVANUS ODHIAMBO
(2) VINCENT WANDO OBWLO.....RESPONDENTS

(From the ruling of Hon p.n. Areri, RM in Kakamega CM's Court in

Award No.37 of 2009 delivered on 12th November, 2010)

RULING

1. This matter relates to land where the lower court in ***Kakamega Award No.32 of 2009*** adopted the award of Imanga-Mumias Land Disputes Tribunal and entered judgment for the respondents. The appellant has appealed to this court against the said adoption of the award.
2. Both advocates for the parties, Amasakha & Co. Advocates appearing for the 2nd respondent (1st respondent is now deceased) and M/s Phoebe Munihu Muleshe & Co. Advocates, appearing for the appellant filed submissions in the matter. The 2nd respondent is challenging the jurisdiction of this court to hear the appeal.
3. **Article 162(2)(b)** of the Constitution of Kenya 2010 and the Environment and Land Court Act 2012 reserves the jurisdiction to hear matters relating to the environment, the use of and occupation and title to land to the Environment and Land Court. Under the Act the said court has both original and appellate jurisdiction in matters relating to land. This appeal should therefore have been filed with the Environment and Land court.

In the foregoing I do hold that this court has no jurisdiction to entertain the matter. The file is referred to the Kakamega Environment and Land Court for hearing and determination of the appeal.

Delivered, dated and signed at Kakamega this 28th day of June, 2017.

J. NJAGI

JUDGE

In the presence of:

Shifwoka H/B Muleshe..... for appellant

Masake for respondent absent

..... Court Assistant

Appellant Absent

Respondents Absent